

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TERRY M. YUSCHAK

Petitioner,

vs.

WARDEN EDWARD SHELDON,

Respondent.

) **CASE NO. 1:19CV520**
)
) **JUDGE DAN AARON POLSTER**
)
) **OPINION AND ORDER**
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This case is before the Court on the Report and Recommendation of Magistrate Judge George J. Limbert ("R&R"). Doc #: 10. Petitioner filed a motion requesting a stay and abeyance of his Petition under 28 U.S.C. § 2254. Doc #: 3. Alternatively, Petitioner requests dismissal of his § 2254 petition without prejudice if the Court were to deny the stay and abeyance. *Id.* The Magistrate Judge recommends that the Court deny Petitioner's motion for stay and abeyance of his § 2254 petition, Doc #: 3, and, at Petitioner's request, dismiss the § 2254 because he has not exhausted Grounds Ten and Eleven in state court and they are not potentially meritorious in federal court. Doc #: 10.

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1) (emphasis added). In this case, the R&R was issued on January 16,

2020, and it is now February 10, 2020. Twenty-five days have elapsed since the R&R was issued, and Petitioner has neither filed objections nor a request for an extension of time to file them. The failure to timely file written objections to an R&R constitutes a waiver of a *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Despite the lack of objections, the Court has reviewed the Magistrate Judge's thorough, well-written R&R, and agrees with the Magistrate Judge's findings. Therefore, the Court **ADOPTS** the R&R, **Doc #: 10**. Accordingly, the Court **DENIES** petitioner's motion requesting a stay and abeyance, **Doc #: 3**, and hereby **DISMISSES WITHOUT PREJUDICE** the § 2254 Petition, **Doc #: 1**.

IT IS SO ORDERED.

/s/ Dan A. Polster February 10, 2020
Dan Aaron Polster
United States District Judge